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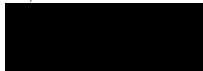
U.S. Citizenship
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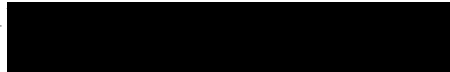


Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Cindy N. Gomez for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant is a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director determined that the applicant failed to submit sufficient evidence to establish continuous physical presence in the United States since March 9, 2001. The director determined the applicant had not established eligibility for TPS and, therefore, denied the application.

On appeal, the applicant submits additional evidence of residence in the United States.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the Federal Register, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole;
 - or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of condition described in paragraph (f)(2) of this section.

Continuously physically present means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

Continuously resided means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Secretary of Homeland Security, with validity until March 9, 2005, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by the director. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

On October 11, 2002, the applicant was provided the opportunity to submit evidence establishing his residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. In response, the applicant submitted the following evidence:

- 1) a copy of an earnings statement from Cannon's Restaurant for the period November 15, 1999 to November 19, 1999;
- 2) eight paycheck stubs for earnings at the Laguna Beach House, Inc., during the periods May 1, 2000 to May 15, 2000; October 1, 2000 to October 15, 2000; January 16, 2001 to January 31, 2001; June 16, 2001 to June 30, 2001; December 16, 2001 to December 31, 2001; April 16, 2002 to April 30, 2002; August 1, 2002 to August 15, 2002; and November 16, 2002 to November 30, 2002, and
- 3) an IRS Form W-2 for the tax year 2001.

The director determined the evidence was insufficient to establish continuous physical presence in the United States since March 9, 2001. On March 19, 2003, the director denied the application for TPS.

On appeal, the applicant submits the following additional evidence:

- 1) paycheck stub for earnings at Aloha Restaurants, Inc., during the period June 14, 2001 to June 27, 2001;
- 2) paycheck stubs for earnings at Laguna Beach House, Inc., during the periods February 16, 2001 to February 28, 2001; March 1, 2001 to March 15, 2001; March 16, 2001 to March 31, 2001; April 1, 2001 to April 15, 2001; May 1, 2001 to May 15, 2001; May 16, 2001 to May 31, 2001; July 1, 2001 to July 15, 2001; August 1, 2001 to August 15, 2001; August 31, 2001 to August 16, 2001; September 16, 2001 to September 30, 2001; October 16, 2001 to October 31, 2001; November 1, 2001 to November 15, 2001; November 16, 2001 to November 30, 2001; December 1, 2001 to December 15, 2001; January 16, 2002 to January 31, 2002; February 1, 2002 to February 15, 2002; February 16, 2002 to February 28, 2002; March 16, 2002 to March 31, 2002; April 1, 2002 to April 15, 2002; May 1, 2002 to May 15, 2002; May 16, 2002 to May 31, 2002; June 16, 2002 to June 30, 2002; July 1, 2002 to July 15, 2002; August 16, 2002 to August 31, 2002; September 1, 2002 to September 15, 2002; September 16, 2002 to September 30, 2002; October 1, 2002 to October 15, 2002; October 16, 2002 to October 31, 2002; November 1, 2002 to November 15, 2002; and December 1, 2002 to December 15, 2002; and
- 3) four paycheck stubs for earnings at Rancho Beach House, Inc. for the periods January 1, 2003 to January 15, 2003; January 16, 2003 to January 31, 2003; February 1, 2003 to February 15, 2003; and March 1, 2003 to March 15, 2003.

Based on the documents furnished on appeal, in conjunction with other evidence in the record of proceeding, it is concluded that the applicant has established that he has continuously resided in the United States since February 13, 2001, and has been continuously physically present in the United States since March 9, 2001.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The applicant's appeal is sustained.